

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LEILA M. PONFIL,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Case No. 21-CV-1469-JPS

ORDER

Plaintiff filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #2). The Court may grant Plaintiff's motion to proceed *in forma pauperis* if it determines that (1) Plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) Plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who . . . would remain without legal remedy if such privilege were not afforded to them." *Brewster v. N. Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). In her motion for leave to proceed *in forma pauperis*, Plaintiff made statements about her income, expenses, and assets under oath. (Docket #2). Plaintiff avers that she is unemployed, unmarried, and has no dependents. (*Id.* at 1). She has a monthly income of \$1,400 in retirement payments, and her daughter gives her an additional \$250 to assist with expenses. (*Id.* at 2). Her monthly expenses total \$1,620—these consist of rent, utilities, and food. (*Id.* at 2–3). She does not own a car or any other

assets. (*Id.* at 3–4). Based on this information, the Court is satisfied that Plaintiff is indigent and cannot afford the filing fee.


As to the second requirement, the Court cannot say, at this stage, that Plaintiff's action is either frivolous or malicious. Plaintiff submitted a complaint which includes allegations that the administrative law judge ("ALJ") erred in reaching a decision. (*See* Docket #1). If that contention is true, then the Court will be obliged to vacate the ALJ's decision. For the reasons stated herein, the Court will grant Plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket #2) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 4th day of January, 2022.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge